

Damian P. Richard, Esq. (SBN 1409067)
SESSIONS, FISHMAN, NATHAN & ISRAEL, L.L.P.
1545 Hotel Circle South, Suite 150
San Diego, CA 92108-3426
Tel: 619/758-1891
Fax: 619/296-2013
drichard@sessions-law.biz

Attorney for Diversified Consultants, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

JUSTIN RICHARD GILMORE,

Plaintiff,

vs.

DIVERSIFIED CONSULTANTS,
INC.,

Defendant.

JUSTIN RICHARD GILMORE,

Plaintiff,

vs.

DIVERSIFIED CONSULTANTS,
INC.,

Defendant.

Case No.: 14-cv-0243-TMB

DIVERSIFIED CONSULTANTS,
INC.'S MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT
OF MOTION TO CONSOLIDATE

Hon. Timothy M. Burns

Date:

Time:

Courtroom:

Case No. 14-cv-00202-TMB

Hon. Timothy M. Burns

I. INTRODUCTION

Plaintiff In Pro Per Justin Richard Gilmore (“Plaintiff”) already had another action pending against Diversified Consultants, Inc. (“DCI”) before the Honorable Timothy M. Burns when he initiated this action. *See Justin Richard Gilmore v. Diversified Consultants, Inc.*, Case No. 14-cv-00243-TMB. That action was filed first and is still pending. *Id.* Both cases involve identical parties, facts, and law. *Id.* DCI respectfully requests this Court consolidate this case with *Justin Richard Gilmore v. Diversified Consultants, Inc.*, Case No. 14-cv-00202-TMB.

II. ARGUMENT

Federal Rule of Civil Procedure Rule 42(a) provides:

- (a) Consolidation. If actions before the court involve a common question of law or fact, the court may:
- (1) join for hearing or trial any or all matters at issue in the actions;
 - (2) consolidate the actions; or
 - (3) issue any other orders to avoid unnecessary cost or delay.

District Courts enjoy broad discretion in controlling their dockets and in passing on requests to consolidate actions. 9A Charles A. Wright, et al., *Federal Practice & Procedure* § 2382 (3d ed.). “[U]nder Rule 42, the main question a court must address is whether there are common questions of law or fact[;]” secondarily, the Court must also “weigh[] the saving of time and effort consolidation would produce against any inconvenience, delay or expense that it would cause.” *Single Chip Systems Corp. v. Intermec IP Corp.*, 495 F.Supp.2d 1052, 1057 (S.D. Cal. 2007) (quoting *Huene v. United States*, 743 F.2d 703, 704 (9th Cir.1984)).

Here, the factual allegations in both cases are identical. The cases involve common questions of law and fact and consolidation would save otherwise duplicative time, effort, and judicial resources.

1 **III. CONCLUSION**

2 For all the foregoing reasons, DCI respectfully requests this Court
3 consolidate this case with *Justin Richard Gilmore v. Diversified Consultants, Inc.*,
4 Case No. 14-cv-00202-TMB.

5
6 Dated: 12/17/14

SESSIONS FISHMAN, NATHAN & ISRAEL, L.L.P.

7 /s/ Damian P. Richard

8 Damian P. Richard

9 Attorney for Diversified Consultants, Inc.

1 CASE NAME: Justin Richard Gilmore v. Diversified Consultants, Inc.
2 CASE NO: 14-cv-0243 TMB

3 **PROOF OF SERVICE**

4 I, the undersigned, hereby certify that I am a citizen of the United States, over the age of
5 18 years and not a party to the within action; my business address is 1545 Hotel Circle
6 South, Suite 150, San Diego, CA 92108 I served the following:

7 **Diversified Consultants, Inc.'s Memorandum of Points and**
8 **Authorities in Support of Motion to Consolidate**

9 (x) BY U.S. MAIL

10 I served a true and correct copy of the above-named documents by mail by placing
11 the same in a sealed envelope with postage fully prepaid, and depositing said envelope in
12 the U.S. mail at San Diego, California. Said envelope(s) was/were addressed as listed
hereafter:

13 () BY FEDERAL EXPRESS DELIVERY

14 I served a true and correct copy of the above-named documents by Federal
15 Express by placing the same in a sealed envelope with postage fully prepaid, and
16 depositing said envelope in the Federal Express location in San Diego, California. Said
envelope(s) was/were addressed as listed hereafter:

17 () BY COURT'S CM/ECF ELECTRONIC FILING SERVER

18 I served on the interested parties in this action through their attorney's, as stated
19 below, who have agreed to accept electronic service in this matter, by electronically filing
20 and serving said documents via the Court's CM/ECF electronic filing server.

21 Justin Richard Gilmore
22 6501 East 9th Ave
23 Anchorage, AK 99504

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct.

26 Dated: December 17, 2014

27 

28 Ann M. Coito